IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 9908 of 1995

Between:

Komaravilli Sekhar, S/o Sri Mallaiah,

Aged about 28 years,

R/o H.No.8-2-61, Vemulawada Village,

Karimnagar District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh,

Represented by its Secretary, Panchayat Raj,

Rural Development and Relief Department,

Secretariat, Hyderabad.

2. The District Panchayat Officer,

Karimnagar District, Karimnagar.

3. The Executive Officer,

Vemulawada Gram Panchayat, Vemulawada,

Karimnagar District.

4. Smt. Areti Sugunamma,

W/o Sri Sekharaiah,

R/o Vemulawada, near Masjid,

Karimnagar district.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, particularly one in the nature of writ of mandamus and after calling for the records from the first respondent to declare the G.O.Rt.No.663, Panchayat Raj, Rural Development & Relief (Pts.IV) Department, dated 08-05-1995 as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.4: MR.B.MAHENDER REDDY

The Court at the stage of admission made the following ORDER:

The petitioner, who is the neighbour of the fourth respondent, filed the present writ petition stating that he made an application to the third respondent-Executive Officer, Vemulawada Gram Panchayat, Vemulawada, on 23-12-1993 raising objections with regard to the proposed construction undertaken by the fourth respondent, which is contrary to the provisions of the Gram Panchayat Act, without leaving sufficient space between his property and where the construction is proceeded with and the permission granted by the Gram Panchayat dated 05-02-1994 is contrary to the rules.

Aggrieved by the same, he preferred an appeal before the second respondent-District Panchayat Officer, Karimnagar, under Section 46 of the Andhra Pradesh Gram Panchayat Act, 1964 (for short “the Act”), who entertained the appeal initially directed the fourth respondent to stop construction on 22-02-1994 and later, vacated the same on 26-02-1994 by allowing the fourth respondent to proceed with the construction work. Aggrieved by the same, he filed WP.No.6289 of 1994 before this Court questioning the orders dated 26-02-1994 for vacating the stay granted on 22-02-1994 and the same was disposed of on 05-04-1994 at the admission stage setting aside the order dated 26-02-1994 and remanded the matter to the second respondent for fresh disposal. On such disposal of the writ petition, the appeal filed by the petitioner before the second respondent was dismissed on 06-05-1994.

Questioning the said order, he preferred a revision before the first respondent-

Secretary, Panchayat Raj, Rural Development and Relief Department, Hyderabad, under Section 232 of the Act. The first respondent has dismissed the revision petition holding that “the petitioner has not pointed out any specific violations of the fourth respondent except stating that it is contrary to the Andhra Pradesh Gram Panchayat Building Rules and the said construction will obstruct the passage of air and light to his property and the revision petitioner was indulging in protracting the litigation. Whereas the fourth respondent has already carried out the construction of building in accordance with the plan as approved by the Gram Panchayat and the same has been inspected and amended by the second respondent with due notice to the parties concerned and it has been noticed on perusal of the records that the petitioner has not raised any objection during site inspection by the Executive Officer / District Panchayat Officer and others. More so, the premises where the fourth respondent is making construction was exempted as per the provisions of sub-section 24(5) and sub-section 37 of Section 125-A of the Act duly notified in Gazette No.11 of A.P. Gazette dated 15-07-1994”.

Heard the learned counsel for the petitioner, learned counsel for the fourth respondent and learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondent Nos.1 to 3.

Learned senior counsel Mr.K.Ramakrishna Reddy appearing for the fourth respondent rightly contended that once the property is exempted from the provisions of Section 125-A of the Act by issuing gazette notification by the Government, the same has become final and the same has not been questioned so far. Therefore, the petitioner cannot question the permission granted by the Gram Panchayat dated 05-02-1994.

In view of the fact that the permission granted by the Gram Panchayat is in tune with the provisions of the Act and both the authorities concurrently held that no specific violation has been pointed out by the petitioner in granting permission in favour of the fourth respondent and also as the fourth respondent completed the construction long back even prior to the revision is disposed of, I see no grounds to entertain the writ petition at this stage and therefore, it is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

20th SEPTEMBER, 2004.

kvni

To

1. The Government of Andhra Pradesh,

Represented by its Secretary, Panchayat Raj,

Rural Development and Relief Department,

Secretariat, Hyderabad.

2. The District Panchayat Officer,

Karimnagar District, Karimnagar.

3. The Executive Officer,

Vemulawada Gram Panchayat, Vemulawada,

Karimnagar District.

4 Two CCs to the Government Pleader for Panchayat Raj and Rural Development, A.P.High Court Buildings, Hyderabad (OUT)

5 Two CD copies.